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Elizabeth A. Dudek
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AF/3724
#23/
Notice of appeal
3/25/04
V. Hart

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of)
Vincent T. Kozyrski et al.) Examiner: D. Watts
for ROTARY CUTTER) Group Art Unit: 3724
Serial No.: 09/822,136)
Filed: 30 March 2001) Docket No. 6611-01

Hartford, Connecticut, 4 February 2004

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
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NOTICE OF APPEAL

Dear Sirs:

Pursuant to 37 C.F.R. § 1.191, Applicant hereby appeals to the Patent Office Board of Patent Appeals and Interferences from the decision of the Examiner in the Final Office Action dated November 4, 2003, rejecting Claims 1, 4-6, 13, 25-30 of this application.

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Regarding the fees for the present Notice of Appeal and the Appeal Brief filed herewith, appellants refer to MPEP §1208.03 "Reopening of Prosecution After Appeal" which provides:

Whether appellant elects to continue prosecution or to request reinstatement of the appeal, if prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the notice of appeal, appeal brief, and request for oral hearing (if applicable) will be applied to a later appeal on the same application.

In the present application, appellants filed a Notice of Appeal and an Appeal Brief on 12/31/04 appealing the final rejection of the Examiner. In response to appellants appeal, but before the appeal was considered by the Board, the Examiner withdrew the final rejection and issued new grounds of rejection. Hence, the present situation is on point with the scenario described within MPEP §1208.03. Consequently, appellants do not believe any fees are due in the present application.

In the event any fee is due with this filing, however, appellants authorize that fee be charged to our Deposit Account No. 13-0235 and ask that the undersigned attorney be telephoned so that an explanation of the charges can be provided.

Respectfully submitted,

By Richard D. Getz

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